

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JESUS CERDA,

Plaintiff,

v.

CAPITAL ONE BANK USA NA, et al.,

Defendants.

Case No. 22-cv-05188-TLT

**ORDER REGARDING PLAINTIFF'S
FAILURE TO SERVE COMPLAINT
WITHIN NINETY DAYS; ORDER TO
SHOW CAUSE WHY DEFENDANT
EQUIFAX INFORMATION SERVICES
LLC'S MOTION TO DISMISS
SHOULD NOT BE GRANTED**

On September 12, 2022, plaintiff Jesus Cerda ("Plaintiff"), proceeding pro se, filed a complaint against defendants Ally Financial, Capital One Bank, Comenity Bank Express, Credit One Bank, Discover Bin Svcs LLC, ISAC, Macys/DSNB, Synbc/Care Credit, Ability Recovery Services, Convergent Outsourcing, Comcast, Jefferson Capital Syst., AES/Suntrust Bank, ILL Student Asst. Co., Experian, TransUnion LLC, and Equifax. *See* Comp., ECF No. 1.

Under Federal Rules of Civil Procedure Rule 4(m), Plaintiff is responsible for service of the summons, the complaint, and any amendments and attachments on all defendants "within 90 days after the complaint is filed." *See* Fed. R. Civ. P. 4(m); *see also* Civ. L.R. 4-2. Because Plaintiff filed his complaint on September 12, 2022, service of the summons, the complaint, and any amendments and attachments under Rule 4 was due by December 12, 2022. As of the date of this Order, Plaintiff has not filed proof of service on defendants Macys/DSNB, SYNBC/Care Credit, Comcast, and Ability Recovery Services.

Nevertheless, because Plaintiff is proceeding pro se, the Court extends a one-time courtesy and hereby **DIRECTS** Plaintiff to file either (1) proof of service(s) or (2) a written response to this Order explaining his failure to comply with Rule 4(m) by no later than **Friday, April 28, 2023**. Failure to timely file will result in dismissal of defendants Macys/DSNB, SYNBC/SYNBC/Care Credit, Comcast, and Ability Recovery Services for failure to prosecute pursuant to Rule 4(m).

1 In addition, on March 9, 2023, defendant Experian Information Services LLC filed a
2 motion to dismiss Plaintiff's complaint under Federal Rules of Civil Procedure 12(b)(5) and 4(m)
3 for insufficient and improper service. *See* ECF No. 62. Plaintiff's response or opposition to the
4 motion was due by March 23, 2023. Plaintiff did not file a response or opposition by the deadline.

5 Given Plaintiff's failure to oppose the motion to dismiss by the deadline, Plaintiff is hereby
6 **ORDERED** to show cause why defendant Experian Information Services LLC's motion should
7 not be granted as unopposed. Plaintiff shall file a response to this Order to Show Cause **by April**
8 **28, 2023**. If Plaintiff seeks to file an untimely opposition brief, he must submit a request to do so
9 showing good cause for his failure to comply with the deadline required by the Local Rules and
10 must submit his proposed opposition brief with the request. If Plaintiff fails to file a response to
11 this Order to Show Cause by the deadline, the Court shall grant defendant Experian Information
12 Services LLC's motion to dismiss as unopposed without further notice to Plaintiff. If Plaintiff
13 seeks to file an untimely opposition brief, and if the Court grants that request, it shall set a new
14 deadline for Experian Information Services LLC to file a reply brief. Accordingly, the April 25,
15 2023, motion hearing is hereby **VACATED** and will be reset by the Court if necessary.

16 Finally, the Court advises Plaintiff that the District Court has produced a guide for self-
17 represented/pro se litigants called Representing Yourself in Federal Court: A Handbook for Pro Se
18 Litigants, which provides instructions on how to proceed at every stage of a case, including
19 discovery, motions, and trial. It is available electronically online.

20 The Court also advises Plaintiff that assistance is available through the Legal Help Center.
21 Parties can make an appointment to speak with an attorney who can provide basic legal
22 information and assistance. The Help Center does not see people on a "drop-in" basis and will not
23 be able to represent parties in their cases. There is no charge for this service. The Help Center's
24 website is available at <https://cand.uscourts.gov/legal-help>.

25 **IT IS SO ORDERED.**

26 Dated: March 31, 2023

27 
28 TRINA L. THOMPSON
United States District Judge